

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	Confirmation No.:	7398
Jerding <i>et al.</i>	Group Art Unit:	2426
Serial No.: 10/783,235	Examiner:	Peng, Fred H
Filed: February 20, 2004	Docket No.:	60374.0004USD3/CPOL 968576

For: **CHANNEL CONTROL SYSTEM FOR EXITING FROM AN INTERACTIVE
PROGRAM GUIDE**

AMENDED APPEAL BRIEF UNDER 37 C.F.R. § 41.37(d)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an amended appeal brief responsive to the Office Communication (herein, "Communication") dated March 12, 2010, which alleges that the brief is defective and the appeal is dismissed for failure to specify that the claims stand or fall together in the Arguments Section. The previously filed appeal brief was prompted from the FINAL Office Action dated October 2, 2008 (Part of Paper No./Mail Date 20080925), which rejected claims 1-8 in the present application. The present application also underwent a pre-appeal brief conference, and in the Notice of Panel Decision from Pre-Appeal Brief Review (herein, "Decision") dated November 3, 2009, the Decision indicates that there is at least one actual issue for appeal.

In response to the Communication, Appellants note the presumption by the Board upon finding an omission of arguments for a grouped claim (see, e.g., MPEP 1205.02). Nevertheless, in the interest of advancing the appeal and avoiding any further delays, Appellants have amended the Arguments Section to identify in the respective header the grouped claims at issue, and have inserted the statement that the dependent

claims stand and fall together with the respective independent claim, as is evident from the arguments directed exclusively to each independent claim. Appellants have also replaced “claim 2” with the respective dependent claim at issue in the sentence under each of the independent claim arguments (after independent claim 1 and dependent claim 2 arguments), “[A]ccordingly, Appellant respectfully requests that the Board overturn the rejection to claim X as a matter of law,” where “X” was previously and erroneously written as “2” instead of the appropriate dependent claim at issue. No further amendments have been made. Reconsideration is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 13-2725.

I. REAL PARTY IN INTEREST

The real party in interest of the instant application is Scientific-Atlanta, Inc., having its principal place of business at 5030 Sugarloaf Parkway, Lawrenceville, GA 30044. Scientific-Atlanta, Inc., the assignee of record, is wholly owned by Cisco Systems, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-8 stand finally rejected by the FINAL Office Action mailed October 2, 2008, and are the subject of this appeal. No claims were cancelled during prosecution.

IV. STATUS OF AMENDMENTS

There have been no claim amendments made after the FINAL Office Action, and all amendments made before the FINAL Office Action have been entered. The claim listing in section 0 (CLAIMS – APPENDIX, below) represents the present state of the claims.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Embodiments of the claimed subject matter are summarized below with reference numbers and references to the written description (“specification”) and drawings. The subject matter described below appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments of the claimed subject matter, such as those defined by independent claim 1, define a method for providing video content via a television (see, e.g., Figure 2,

reference numeral 21, and page 4, line 15), comprising the steps of: providing a user with a menu (see, e.g., Figure 4, reference numeral 64, and page 9, lines 15-28) that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key (see, e.g., page 9, lines 34-35), wherein the menu is displayed via the television (see, e.g., page 9, lines 25-28); receiving a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide having a plurality of television program listings (see, e.g., page 9, lines 15-35); providing the IPG (see, e.g., FIG. 8, reference numeral 100, page 12, lines 3-23); receiving a second user input corresponding to the channel navigation key (see, e.g., page 12, lines 14-17); and responsive to receiving the second user input and responsive to having previously received the first user input (see, e.g., page 9, lines 18-21): terminating providing of the IPG (see, e.g., page 12, lines 14-17); and providing a video presentation (see, e.g., page 12, lines 14-17).

Embodiments of the claimed subject matter, such as those defined by independent claim 3, define a method for providing video content via a television (see, e.g., Figure 2, reference numeral 21, and page 4, line 15), comprising the steps of: providing a user with a menu (see, e.g., Figure 4, reference numeral 64, and page 9, lines 15-28) that includes a plurality of options corresponding to respective control settings for controlling functionality of numeral input keys (see, e.g., page 9, lines 34-35), wherein the menu is displayed via the television (see, e.g., page 9, lines 25-28); receiving a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings (see, e.g., page 9, lines 15-35); providing the IPG (see, e.g., FIG. 9, reference numeral 110, page 12, lines 24-36); receiving a second user input corresponding to at least one of the numeral input keys (see, e.g., page 12, lines 29-32); and responsive to receiving the second user input and responsive to having previously received the first user input (see, e.g., page 9, lines 18-21): terminating provision of the IPG (see, e.g., page 12, lines 29-32); and providing a video presentation (see, e.g., page 12, lines 29-32).

Embodiments of the claimed subject matter, such as those defined by independent claim 5, define a television set-top terminal (STT) (see, e.g., FIG. 2, reference numeral 16, page 4, line 13 – page 8, line 11) configured to output video signals to a television (see, e.g., Figure 2, reference numeral 21, and page 4, line 15), the STT comprising: at least one tuner (see, e.g., FIG. 2, reference numeral 25, and page 4, line 22) configured to receive video signals corresponding to video presentations; memory (see, e.g., FIG. 2, reference numeral 30, and page 5, line 3) having stored therein program code (see, e.g., page 5, lines 6-13 and page 7, lines 19-21); and at least one processor (see, e.g., FIG. 2, reference numeral 24, and page 4, line 20) that is programmed by the program code to enable the STT to: provide a user with a menu (see, e.g., Figure 4, reference numeral 64, and page 9, lines 15-28) that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key (see, e.g., page 9, lines 34-35), wherein the menu is displayed via the television (see, e.g., page 9, lines 25-28); receive a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings (see, e.g., page 9, lines 15-35); provide the IPG (see, e.g., FIG. 8, reference numeral 100, page 12, lines 3-23); receive a second user input corresponding to the channel navigation key (see, e.g., page 12, lines 14-17); and responsive to receiving the second user input and responsive to having previously received the first user input (see, e.g., page 9, lines 18-21): terminate provision of the IPG (see, e.g., page 12, lines 14-17); and provide a video presentation (see, e.g., page 12, lines 14-17).

Embodiments of the claimed subject matter, such as those defined by independent claim 7, define a television set-top terminal (STT) (see, e.g., FIG. 2, reference numeral 16, page 4, line 13 – page 8, line 11) configured to output video signals to a television (see, e.g., Figure 2, reference numeral 21, and page 4, line 15), the STT comprising: at least one tuner (see, e.g., FIG. 2, reference numeral 25, and page 4, line 22) configured to receive video signals corresponding to video presentations; memory (see, e.g., FIG. 2, reference numeral 30, and

page 5, line 3) having stored therein program code (see, e.g., page 5, lines 6-13 and page 7, lines 19-21); and at least one processor (see, e.g., FIG. 2, reference numeral 24, and page 4, line 20) that is programmed by the program code to enable the STT to: provide a user with a menu that includes a plurality of options corresponding to respective control setting for controlling functionality of numeral input keys (see, e.g., page 9, lines 34-35), wherein the menu is displayed via the television (see, e.g., page 9, lines 25-28); receive a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings (see, e.g., page 9, lines 15-35); provide the IPG (see, e.g., FIG. 9, reference numeral 110, page 12, lines 24-36); receive a second user input corresponding to at least one of the numeral input keys (see, e.g., page 12, lines 29-32); and responsive to receiving the second user input and responsive to having previously received the first user input (see, e.g., page 9, lines 18-21): terminate provision of the IPG (see, e.g., page 12, lines 29-32); and provide a video presentation (see, e.g., page 12, lines 29-32).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The following ground of rejection is to be reviewed on appeal.

A. Claims 1-8 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by *Alexander et al.* (“*Alexander*,” U.S. Pat. No. 6,177,931).

VII. ARGUMENT

A. Rejection of Claims 1-8 under 35 U.S.C. §102(e): *Alexander*

Appellant respectfully requests that this rejection be overturned. It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220

USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

1. Independent Claim 1 and Dependent Claim 2

Claim 1 recites (with emphasis added):

1. A method for providing video content via a television, comprising the steps of:
 providing a user with a menu that includes a plurality of options
 corresponding to respective control settings for controlling functionality of a
 channel navigation key, wherein the menu is displayed via the television;
 receiving a first user input corresponding to ***one of the plurality of
options that is configured to terminate provision of an interactive program
guide (IPG)*** having a plurality of television program listings;
 providing the IPG;
 receiving a second user input corresponding to the channel navigation
key; and
 responsive to receiving the second user input and responsive to having
previously received the first user input:
 terminating providing of the IPG; and
 providing a video presentation.

Appellant respectfully submits that *Alexander* fails to disclose, teach, or suggest at least the above-emphasized features. For instance, the FINAL Office Action (pages 2-3) alleges that the above-emphasized features correspond to the select unlock button, and in particular alleges that the “select unlock button terminates lock state and entering unlock state.” Appellant respectfully disagrees. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:

If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed “options” has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation.

It is noted that column 3, line 63 of *Alexander* makes it clear that the PIP window “can be locked or unlocked,” and is hence not referring to termination of the IPG as a whole. However, the FINAL Office Action alleges on page 2 the following:

...the Applicant’s emphasized features of “one of options that is configured to terminate provision of an interactive program guide (IPG)” can be interpreted as “options to terminate a specific function or feature within the IPG instead of terminating the IPG itself”; hence the teaching of *Alexander* with option to unlock the lock function of video display in the IPG reads into the Applicant’s claimed features.

Appellant respectfully disagrees. Specifically, Appellant submits that terminating a function or feature within an IPG is not the same as “terminat[ing] provision of an interactive program guide (IPG)” as recited in claim 1. In other words, the FINAL Office Action does not appear to treat the term “provision” as an act or process of providing an IPG, but rather, as a function provided within the IPG (despite the absence of an indefinite article preceding “provision”). Notwithstanding apparent grammatical irregularities associated with such an interpretation, this interpretation of the FINAL Office Action is clearly not consistent with the option in menu 64 in FIG. 4 of Appellant’s disclosure (which clearly recites “exit IPG and tune to requested channel”), and hence is at odds with well-established Federal case law that requires consistency between the specification (Appellant’s) and the interpretation. For instance, as set forth in MPEP 2111 and citing *Phillips*:

During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” >The Federal Circuit’s *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the “broadest reasonable interpretation” standard:

The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the

rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1).

For at least the reasons set forth above, Appellant respectfully submits that claim 1 is allowable over *Alexander*, and respectfully requests that the Board overturn the rejection.

Because independent claim 1 is allowable over *Alexander*, dependent claim 2 is allowable as a matter of law for at least the reason that the dependent claim 2 contains all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Appellant respectfully requests that the Board overturn the rejection to claim 2 as a matter of law. It is respectfully submitted that dependent claim 2 stands or falls together with independent claim 1.

2. Independent Claim 3 and Dependent Claim 4

Claim 3 recites (with emphasis added):

3. A method for providing video content via a television, comprising the steps of:
 providing a user with a menu that includes a plurality of options
 corresponding to respective control settings for controlling functionality of
 numeral input keys, wherein the menu is displayed via the television;
 receiving a first user input corresponding to **one of the plurality of
options that is configured to terminate provision of an interactive program
guide (IPG)** having a plurality of television program listings;
 providing the IPG;
 receiving a second user input corresponding to at least one of the
numeral input keys; and
 responsive to receiving the second user input and responsive to having
previously received the first user input:
 terminating provision of the IPG; and
 providing a video presentation.

Appellant respectfully submit that *Alexander* fails to disclose, teach, or suggest at least the above-emphasized features. For instance, the FINAL Office Action (page 4) alleges that the above-emphasized features correspond to the select unlock button, and in particular alleges that the "select unlock button terminates lock state and entering unlock state." Appellant respectfully

disagrees. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:

If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed "options" has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation.

It is noted that column 3, line 63 of *Alexander* makes it clear that the PIP window "can be locked or unlocked," and is hence not referring to termination of the IPG as a whole. However, the FINAL Office Action alleges on page 2 the following:

...the Applicant's emphasized features of "one of options that is configured to terminate provision of an interactive program guide (IPG)" can be interpreted as "options to terminate a specific function or feature within the IPG instead of terminating the IPG itself"; hence the teaching of *Alexander* with option to unlock the lock function of video display in the IPG reads into the Applicant's claimed features.

Appellant respectfully disagrees. Specifically, Appellant submits that terminating a function or feature within an IPG is not the same as "terminat[ing] provision of an interactive program guide (IPG)" as recited in claim 3. In other words, the FINAL Office Action does not appear to treat the term "provision" as an act or process of providing an IPG, but rather, as a function provided within the IPG (despite the absence of an indefinite article preceding "provision"). Notwithstanding apparent grammatical irregularities associated with such an interpretation, this interpretation of the FINAL Office Action is clearly not consistent with the option in menu 64 in FIG. 4 of Appellant's disclosure (which clearly recites "exit IPG and tune to requested channel"), and hence is at odds

with well-established Federal case law that requires consistency between the specification (Appellant's) and the interpretation. For instance, as set forth in MPEP 2111 and citing *Phillips*:

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1).

For at least the reasons set forth above, Appellant respectfully submits that claim 3 is allowable over *Alexander*, and respectfully requests that the Board overturn the rejection.

Because independent claim 3 is allowable over *Alexander*, dependent claim 4 is allowable as a matter of law. Accordingly, Appellant respectfully requests that the Board overturn the rejection to claim 4 as a matter of law. It is respectfully submitted that dependent claim 4 stands or falls together with independent claim 3.

3. Independent Claim 5 and Dependent Claim 6

Claim 5 recites (with emphasis added):

5. A television set-top terminal (STT) configured to output video signals to a television, the STT comprising:
 at least one tuner configured to receive video signals corresponding to video presentations;
 memory having stored therein program code; and
 at least one processor that is programmed by the program code to enable the STT to:

provide a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key, wherein the menu is displayed via the television;
receive a first user input corresponding to ***one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)*** having a plurality of television program listings;
provide the IPG;
receive a second user input corresponding to the channel navigation key;
and
responsive to receiving the second user input and responsive to having previously received the first user input:
terminate provision of the IPG; and
provide a video presentation.

Appellant respectfully submits that *Alexander* fails to disclose, teach, or suggest at least the above-emphasized features. For instance, the FINAL Office Action (pages 2-3) alleges that the above-emphasized features correspond to the select unlock button, and in particular alleges that the “select unlock button terminates lock state and entering unlock state.” Appellant respectfully disagrees. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:

If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed “options” has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation.

It is noted that column 3, line 63 of *Alexander* makes it clear that the PIP window “can be locked or unlocked,” and is hence not referring to termination of the IPG as a whole. However, the FINAL Office Action alleges on page 2 the following:

...the Applicant’s emphasized features of “one of options that is configured to terminate provision of an interactive program guide (IPG)” can be interpreted as

"options to terminate a specific function or feature within the IPG instead of terminating the IPG itself"; hence the teaching of Alexander with option to unlock the lock function of video display in the IPG reads into the Applicant's claimed features.

Appellant respectfully disagrees. Specifically, Appellant submits that terminating a function or feature within an IPG is not the same as "terminat[ing] provision of an interactive program guide (IPG)" as recited in claim 5. In other words, the FINAL Office Action does not appear to treat the term "provision" as an act or process of providing an IPG, but rather, as a function provided within the IPG (despite the absence of an indefinite article preceding "provision"). Notwithstanding apparent grammatical irregularities associated with such an interpretation, this interpretation of the FINAL Office Action is clearly not consistent with the option in menu 64 in FIG. 4 of Appellant's disclosure (which clearly recites "exit IPG and tune to requested channel"), and hence is at odds with well-established Federal case law that requires consistency between the specification (Appellant's) and the interpretation. For instance, as set forth in MPEP 2111 and citing *Phillips*:

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For at least the reasons set forth above, Appellant respectfully submits that claim 5 is allowable over *Alexander*, and respectfully requests that the Board overturn the rejection.

Because independent claim 5 is allowable over *Alexander*, dependent claim 6 is allowable as a matter of law. Accordingly, Appellant respectfully requests that the Board overturn the rejection to claim 6 as a matter of law. It is respectfully submitted that dependent claim 6 stands or falls together with independent claim 5.

4. Independent Claim 7 and Dependent Claim 8

Claim 7 recites (with emphasis added):

7. A television set-top terminal (STT) configured to output video signals to a television, the STT comprising:
 at least one tuner configured to receive video signals corresponding to video presentations;
 memory having stored therein program code; and
 at least one processor that is programmed by the program code to enable the STT to:
 provide a user with a menu that includes a plurality of options corresponding to respective control setting for controlling functionality of numeral input keys, wherein the menu is displayed via the television;
 receive a first user input corresponding to ***one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)*** having a plurality of television program listings;
 provide the IPG;
 receive a second user input corresponding to at least one of the numeral input keys; and
 responsive to receiving the second user input and responsive to having previously received the first user input:
 terminate provision of the IPG; and
 provide a video presentation.

Appellant respectfully submit that *Alexander* fails to disclose, teach, or suggest at least the above-emphasized features. For instance, the FINAL Office Action (page 4) alleges that the above-emphasized features correspond to the select unlock button, and in particular alleges that the “select unlock button terminates lock state and entering unlock state.” Appellant respectfully disagrees. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:

If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed "options" has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation.

It is noted that column 3, line 63 of *Alexander* makes it clear that the PIP window "can be locked or unlocked," and is hence not referring to termination of the IPG as a whole. However, the FINAL Office Action alleges on page 2 the following:

...the Applicant's emphasized features of "one of options that is configured to terminate provision of an interactive program guide (IPG)" can be interpreted as "options to terminate a specific function or feature within the IPG instead of terminating the IPG itself"; hence the teaching of *Alexander* with option to unlock the lock function of video display in the IPG reads into the Applicant's claimed features.

Appellant respectfully disagrees. Specifically, Appellant submits that terminating a function or feature within an IPG is not the same as "terminat[ing] provision of an interactive program guide (IPG)" as recited in claim 5. In other words, the FINAL Office Action does not appear to treat the term "provision" as an act or process of providing an IPG, but rather, as a function provided within the IPG (despite the absence of an indefinite article preceding "provision"). Notwithstanding apparent grammatical irregularities associated with such an interpretation, this interpretation of the FINAL Office Action is clearly not consistent with the option in menu 64 in FIG. 4 of Appellant's disclosure (which clearly recites "exit IPG and tune to requested channel"), and hence is at odds with well-established Federal case law that requires consistency between the specification (Appellant's) and the interpretation. For instance, as set forth in MPEP 2111 and citing *Phillips*:

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal

Circuit's *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

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For at least the reasons set forth above, Appellant respectfully submits that claim 7 is allowable over *Alexander*, and respectfully requests that the Board overturn the rejection.

Because independent claim 7 is allowable over *Alexander*, dependent claim 8 is allowable as a matter of law. Accordingly, Appellant respectfully requests that the Board overturn the rejection to claim 8 as a matter of law. It is respectfully submitted that dependent claim 8 stands or falls together with independent claim 7.

Due to the shortcomings of the *Alexander* reference described in the foregoing, Appellant respectfully asserts that *Alexander* does not anticipate Appellant's claims. Therefore, Appellant respectfully request that the rejection of these claims be overturned by the Board.

Conclusion

For at least the reasons discussed above, Appellant respectfully requests that the Examiner's FINAL rejection of claims 1-8 be overturned by the Board, and that the application be allowed to issue as a patent with pending claims 1-8.

In addition to the claims listed in Section VIII (CLAIMS – APPENDIX), Section IX (EVIDENCE – APPENDIX) included herein indicates that there is no additional evidence relied upon by this brief. Section X (RELATED PROCEEDINGS – APPENDIX) included herein indicates that there are no related proceedings.

Respectfully submitted,

Date: March 22, 2010

By: _____/David Rodack/
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VIII. CLAIMS – APPENDIX

1. A method for providing video content via a television, comprising the steps of:
 - providing a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key, wherein the menu is displayed via the television;
 - receiving a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings;
 - providing the IPG;
 - receiving a second user input corresponding to the channel navigation key; and
 - responsive to receiving the second user input and responsive to having previously received the first user input:
 - terminating providing of the IPG; and
 - providing a video presentation.
2. The method of claim 1, wherein a video display area is provided in conjunction with the IPG, and wherein the video presentation that is provided responsive to receiving the second user input is different from a video presentation that is displayed in the video display area immediately prior to receiving the second user input.
3. A method for providing video content via a television, comprising the steps of:
 - providing a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of numeral input keys, wherein the menu is displayed via the television;

receiving a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings;

providing the IPG;

receiving a second user input corresponding to at least one of the numeral input keys;

and

responsive to receiving the second user input and responsive to having previously received the first user input:

terminating provision of the IPG; and

providing a video presentation.

4. The method of claim 3, wherein a video display area is provided in conjunction with the IPG, and wherein the video presentation that is provided responsive to receiving the second user input is different from a video presentation that is displayed in the video display area immediately prior to receiving the second user input.

5. A television set-top terminal (STT) configured to output video signals to a television, the STT comprising:

at least one tuner configured to receive video signals corresponding to video presentations;

memory having stored therein program code; and

at least one processor that is programmed by the program code to enable the STT to:

provide a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key, wherein the menu is displayed via the television;

receive a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings;

provide the IPG;

receive a second user input corresponding to the channel navigation key; and

responsive to receiving the second user input and responsive to having previously received the first user input:

terminate provision of the IPG; and

provide a video presentation.

6. The television STT of claim 5, wherein a video display area is provided in conjunction with the LPG, and wherein the video presentation that is provided responsive to receiving the second user input is different from a video presentation that is displayed in the video display area immediately prior to receiving the second user input.

7. A television set-top terminal (STT) configured to output video signals to a television, the STT comprising:

- at least one tuner configured to receive video signals corresponding to video presentations;

- memory having stored therein program code; and

- at least one processor that is programmed by the program code to enable the STT to:

- provide a user with a menu that includes a plurality of options corresponding to respective control setting for controlling functionality of numeral input keys, wherein the menu is displayed via the television;

- receive a first user input corresponding to one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG) having a plurality of television program listings;

- provide the IPG;

- receive a second user input corresponding to at least one of the numeral input keys; and

- responsive to receiving the second user input and responsive to having previously received the first user input:

- terminate provision of the IPG; and

- provide a video presentation.

8. The television set-top terminal of claim 7, wherein a video display area is provided in conjunction with the IPG, and wherein the video presentation that is provided responsive to receiving the second user input is different from a video presentation that is displayed in the video display area immediately prior to receiving the second user input.

IX. EVIDENCE – APPENDIX

None.

X. RELATED PROCEEDINGS – APPENDIX

None.